

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Greenlight Capital, Inc., DME Capital	:	
Management, LP,	:	
	:	Case No.: 24-cv-04832-PAE
Plaintiffs,	:	
	:	
— against —	:	
	:	
James T. Fishback,	:	
	:	ORAL ARGUMENT
Defendant.	:	REQUESTED
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**DEFENDANT JAMES T. FISHBACK’S NOTICE OF MOTION TO DISMISS, TO
COMPEL ARBITRATION, AND TO STRIKE**

PLEASE TAKE NOTICE that Defendant James T. Fishback, through his undersigned attorneys, will move this Court before the Honorable Paul A. Engelmayer, at the Thurgood Marshall United States Courthouse for the Southern District of New York, 40 Foley Square, New York, NY 10007 on a date and at a time to be designated by the Court, for an Order:

1. Pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing Plaintiffs’ second cause of action (unfair competition), third cause of action (tortious interference with prospective economic advantage), and fourth cause of action (defamation and defamation per se);
2. Pursuant to the Federal Arbitration Act, compelling arbitration of any causes of action that are not dismissed under the arbitration clause in the Parties’ Employment Agreement;
3. Pursuant to Federal Rule of Civil Procedure 12(f), striking allegations in the Complaint that are irrelevant, immaterial, impertinent, and salacious; and

4. Granting to Mr. Fishback such other and further relief as the Court deems just and proper.

This motion is supported by the Declaration of Mr. Fishback, dated August 25, 2024, and the exhibit attached thereto, the Declaration of Justin T. Kelton, dated August 26, 2024, and the exhibits attached thereto, and Mr. Fishback's Memorandum of Law, dated August 26, 2024.

PLEASE TAKE NOTICE that, pursuant to Local Civil Rule 6.1(b), any opposing or response papers must be served within fourteen days of the service of these motion papers; and

PLEASE TAKE NOTICE that, pursuant to Local Civil Rule 6.1(b), any reply papers will be served within seven days after service of the answering papers; and

PLEASE TAKE NOTICE that Oral Argument is requested.

Dated: Brooklyn, New York
August 26, 2024

Respectfully submitted,

ABRAMS FENSTERMAN, LLP

/s/ Justin T. Kelton
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